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**Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions**

**The situation in the occupied territories of Azerbaijan**

## Letter dated 2 February 2005 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I would like to refer to the letter dated 3 December 2004 from the Permanent Representative of Armenia,[1] in which he made reference to the concluding observations of the Committee on Economic, Social and Cultural Rights on the second periodic report of Azerbaijan on the implementation of the International Covenant on Economic, Social and Cultural Rights.[2]

Apparently, the content and outcomes of the reporting process and bilateral dialogue between a State party and a human rights treaty monitoring body are designed to contribute to the further effective implementation by that State party of its commitments under a specific international human rights instrument, not to be used as grounds for politically motivated accusations by another State party.

It is unfortunate that Armenia's representative, by applying, for his political convenience, a selective approach to the above-mentioned report, misinterprets and disguises its very essence. By doing so he tries to mislead the international community. It is not surprising that the Armenian representative, "presenting" paragraph 28 of the report, deliberately omitted the important words "by refugees and internally displaced persons", thus falsifying the meaning of the paragraph. He also dealt with paragraph 15 in the same indecent way.

The matter of the so-called illegal occupation of properties touched upon by the Committee on Economic, Social and Cultural Rights and selectively picked by the Armenian representative from the complex of interrelated and interconnected issues should be considered in the context of the armed conflict between Armenia and Azerbaijan as a whole, and interpreted by taking into account its consequences, in particular the violent displacement of populations, which has been reflected in

[1] A/59/593.
[2] E/C.12/1/Add.104, 26 November 2004.

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other relevant documents, including those adopted by the principal organs of the United Nations and other human rights treaty monitoring bodies.[3]

The Committee on Economic, Social and Cultural Rights itself, in the same report, notes that "the presence of a large number of refugees and internally displaced persons as a result of the conflict with Armenia continues seriously to hamper the State party's [Azerbaijan's] ability to implement the economic, social and cultural rights contained in the Covenant".[4]

Before attempting to misinterpret paragraph 15 in the context of the minority issue, Armenia should not overlook the fact that, unlike itself, which has purged its territory of all non-Armenians and become a uniquely mono-ethnic State, Azerbaijan has preserved its ethnic diversity to the present day. The United Nations High Commissioner for Refugees, during his visit to Baku last November, commended the fact, which speaks for itself, that there are at present about 30,000 Armenians living in Azerbaijan, outside the Nagorny-Karabakh region, including 20,000 in Baku.

Instead of accusing other States of pursuing "discriminatory policies with regard to ethnic minorities", it is for the Government of Armenia to exercise some degree of self-evaluation and to analyse the state of implementation of its own international obligations in the field of human rights, and in particular to pay more attention to the conclusions and recommendations of the human rights treaty monitoring bodies on its periodic reports. The human rights treaty monitoring bodies have repeatedly expressed their concerns about the spirit of intolerance prevailing in Armenia and the discriminatory policies and practices pursued in that country against ethnic and religious minorities, refugees and asylum-seekers, women and children.[5]

As for the Goranboy district and the Chaykend village of the Khanlar district of Azerbaijan, which are mentioned by the Permanent Representative of Armenia as "Shahumian" and "Getashen" districts, respectively, it should be recalled that in 1989 Armenian armed groups turned Chaykend into a criminal hub from which they bombed and shelled surrounding villages and roads, terrorizing the local Azerbaijani population. From 1989 to 1991, in Chaykend and adjacent areas, 54 people fell victim to Armenian armed groups. In 1991 central law enforcement agencies of the then-Soviet Union apprehended dozens of Armenian criminal gangs that operated in the area.

As far as the Decree of the President of Azerbaijan of 22 August 2001 is concerned, that was one of the numerous measures taken by the Government of Azerbaijan with the purpose of ensuring the right to adequate living standards, in particular dwelling conditions, for 250,000 Azerbaijanis forcibly expelled from Armenia as a result of ethnic cleansing from 1987 to 1989. The Decree called for the reconstruction of 1,400 demolished houses in Ashaghy Aghjakand and Yukhari

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[3] See General Assembly resolution 48/114; Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993); E/CN.4/1999/79/Add.1, paras. 1, 20 and 23; and CERD/C/304/Add.75, para. 11.

[4] E/C.12/1/Add.104, para. 11.

[5] See A/57/18, paras. 277, 278, 280, 282 and 283; CRC/C/15/Add.119, paras. 24, 32, 46 and 48; CCPR/C/79/Add.100, paras. 14, 15, 16 and 17; and E/C.12/1/Add 39, para. 10.

Aghjakand[6] in order to accommodate refugees from Armenia who had already found shelter in the area, but not in Baku and Ganja as the Armenian representative claimed.

Before making clumsy attempts to react to the inclusion of item 163, entitled "The situation in the occupied territories of Azerbaijan", in the agenda of the fifty-ninth session of the General Assembly, Armenia should realize the key difference between (a) the issues relating to serious breaches of the specific legally binding rules applicable in occupied territories, such as those prohibiting the transfer of population into the occupied territories, which falls within the category of war crimes, and (b) the complex of issues deriving from the problem of population displacement from the areas not considered occupied by definition.

Instead of trying to contribute to restoring peace and security in the region and putting an end to its illegal activities, Armenia, which bears the premier responsibility for the consequences of the armed conflict, misleads the international community by concealing the very essence of the document adopted by the United Nations human rights treaty monitoring body.

Last but definitely not least, and fully relevant to the matter in question, I would like to quote from resolution 1416, entitled "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference", adopted by the Parliamentary Assembly of the Council of Europe on 25 January 2005: "The Parliamentary Assembly regrets that, more than a decade after the armed hostilities started, the conflict over the Nagorno-Karabakh region remains unsolved. Hundreds of thousands of people are still displaced and live in miserable conditions. Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces and separatist forces are still in control of the Nagorno-Karabakh region ... The Assembly recalls resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993) of the United Nations Security Council and urges the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories" (see A/59/689-S/2005/64, annex I).

Therefore, I call on my Armenian counterpart to ponder the prospects of conflict settlement instead of resorting to futile efforts to falsify history and to make misstatements.

[6] The Ashaghy Aghjakand settlement of the Goranboy district was named Shahumian in 1938. On regaining its independence, Azerbaijan merely restored the original name of the settlement. As for the village referred to in the Armenian letter as Verinshen, it is nothing but a literal translation of the original Azerbaijani name of the settlement Yukhari Aghjakand into Armenian, omitting only the word "aghja". The Armenian side began referring to Yukhari Aghjakand as Verinshen only after the beginning of the Armenia-Azerbaijan conflict, though one cannot find a settlement named Verinshen in that very place throughout history. To erase from history the fact that Azerbaijanis had lived in the area, which is now of the Republic of Armenia, it was in fact Armenia that renamed some 2,000 towns, villages and regions that bore Azerbaijani names for centuries, after their transfer from Azerbaijan to Armenia following the establishment of Soviet rule in both countries in 1920.

I should be grateful if you would have the text of the present letter circulated as a document of the General Assembly under agenda items 100 and 163.

(*Signed*) Yashar **Aliyev**
Ambassador
Permanent Representative